

RECEIVED
CENTRAL FAX CENTER

JUL 07 2006

Application No. 10/647,023

Response to Office Action mailed June 8, 2006

Customer No. 01933

REMARKS

The Examiner is respectfully requested to return copies of the Forms PTO/SB/08A filed on December 1, 2003 and the Form PTO/SB/08A filed on November 4, 2004, and to indicate thereon that the cited publications were considered and made of record.

Restriction was required under 35 USC 121 as follows:

Group I. Claims 1 to 54 and 59 to 63, drawn to compounds of formula (I) and their compositions; and

Group II. Claims 55 to 58, drawn to methods of using compounds according to claim 1.

Applicants elect Group I (Claims 1 to 54 and 59 to 63).

In item No. 3 on page 3 of the Office Action, applicants were required to elect a species.

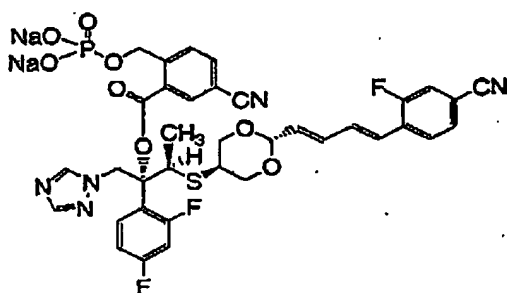
Application No. 10/647,023
Response to Office Action mailed June 8, 2006

Customer No. 01933

Applicants elect Example 5 (Claim 60).

Example 5

Disodium 4-cyano-2[[[(1R,2R)-2-[[trans-2-[(1E,3E)-4-(4-cyano-2-fluorophenyl)-1,3-butadienyl]-1,3-dioxan-5-yl]thio]-1-(2,4-difluorophenyl)-1-[(1H-1,2,3-triazol-1-yl)methyl]propoxy]carbonyl]benzyl phosphate (Disodium Salt of Example Number 5-16)



Claim 60. The triazole compound according to claim 1, wherein the compound is dihydrogen 4-cyano-2[[[(1R,2R)-2-[[trans-2-[(1E,3E)-4-(4-cyano-2-fluorophenyl)-1,3-butadienyl]-1,3-dioxan-5-yl]thio]-1-(2,4-difluorophenyl)-1-[(1H-1,2,3-triazol-1-yl)methyl]propoxy]carbonyl]benzyl phosphate or a pharmacologically acceptable salt thereof.

The Restriction Requirement concerning the election of a species is respectfully traversed on the ground that it is not a species requirement of the type set forth in the third paragraph of MPEP 803.02 entitled "PRACTICE RE MARKUSH TYPE CLAIMS". It is respectfully traversed on the ground that the practice set forth therein and in the decisions cited in MPEP 803.02 are the proper practice to be applied in the present case and to the extent that

Application No. 10/647,023
Response to Office Action mailed June 8, 2006

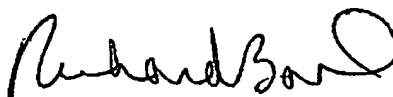
Customer No. 01933

the Restriction Requirement is not consistent therewith, it is respectfully traversed.

If, however, the Restriction Requirement is maintained, then taking into consideration that there are generic claims, it is respectfully requested that the provisions of 37 CFR 1.141(a) and the procedure set forth in MPEP 806.04(d) be followed, which provide that once a claim that is determined to be generic is allowed, all of the claims drawn to species, in addition to the elected species, which include all of the limitations of the generic claim, should be allowed.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,



Richard S. Barth

Reg. No. 28,180

Application No. 10/647,023
Response to Office Action mailed June 8, 2006

Customer No. 01933

Frishauf, Holtz, Goodman & Chick, P.C.
220 Fifth Avenue, 16th Fl.
(New York, NY 10001-7708
Tel. Nos. (212) 319-4900
Fax No.: (212) 319-5101

E-Mail Address: BARTH@FHGC-LAW.COM
RSB/rrb